IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12815 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of an

JJJJ

Heard learned Counsel for the petitioner Mr. I.S. Supehia and learned Assistant Government Pleader Mr. P.R. Abichandani.

2. Rule. Mr. Abichandani waives service of rule for respondents. At the request of the learned Counsel, matter is taken-up for final hearing.

3. By filing the present petition, the petitioner has sought for a direction on the respondents to pay the amount of gratuity and commuted pension with interest from 1.3.1999.

4. On 6th October, 2001 when this matter was listed for admission hearing, a letter dated 3.9.2001 was tendered by learned Counsel for the petitioner mentioning therein that no inquiry against the petitioner is pending and "No Event Certificate" is also issued by the respondents. Mr. Supehia, learned Counsel for the petitioner had handed over a copy of the said letter to the learned AGP, who has now verified the correctness of the statement with the Department and confirms that the Department has issued such "No Event Certificate". It can therefore, be said that no departmental proceedings are pending against the petitioner. Learned AGP also makes a statement that open enquiry against the petitioner, entrusted by the respondent State to the Anti-Corruption Bureau in one case has been dropped by the respondent State.

5. It appears that the petitioner had earlier filed a writ petition when the departmental proceedings were pending against him. In the said petition, being Special Civil Application No. 1990 of 1999, the petitioner had prayed for following reliefs:-

"(A) Directing the respondent to complete the departmental inquiries initiated vide charge sheets dated 25.2.1999 and 26.2.1999 and to pass final orders within three months from the date of this petition. In case the inquiries are not completed within three months then the respondent may be directed to pay the whole amount of gratuity and commuted pension to the petitioner;

(B) Directing the respondent to pay interest at the rate of 12% on the amount of gratuity to the petitioner from 1.3.1999;

(C) During the pendency and final disposal of this petition, the respondent may be directed to pay the interest on gratuity amount at the rate of 12% from 1.3.1999 onwards per month;

(D) To grant such other and further relief as may be deemed fit."

6. I have gone through the decision rendered by this Court (Coram: S.K.Keshote, J.) on 20.4.1999 in the aforesaid Special Civil Application No. 1990/99 preferred by the petitioner. Considering the justified stand of the present petitioner, this Court had directed to complete the departmental inquiries against the petitioner within six months from the date of receipt of writ of the order. It was also observed that if ultimately the petitioner is exonerated in both the inquiries, then certainly for the delayed payment of retirement benefits the respondent has to reasonably compensate the petitioner for deprival of the same by awarding the interest at reasonable rate.

7. Now it is not a matter of dispute that he has been exonerated and the enquiries are dropped. I am told that 10% amount of gratuity has not been paid and 100% legitimate commuted pension has also not been paid to the petitioner. The petitioner could have received the amount in bulk if the departmental proceedings would not have been initiated. The respondents are therefore, directed to pay remaining amount of gratuity and amount of commuted pension at the earliest, preferably within four weeks from today. He should also be paid other retirement benefits including the regular pension etc. I am told by the learned AGP that appropriate orders have been passed and the same have been reached the offices of Director of Pension and Provident Fund. Without going into the merits of this part of the submission, it is clear that the petitioner is entitled to the reliefs prayed for.

8. So far as the claim of interest is concerned, Mr. P.R. Abichandani has resisted the claim and has submitted that considering the date of dropping of the Departmental proceedings, this case should not be treated as a case of delayed payment. However, learned Counsel Mr. Supehia submitted that, had the enquiry not been initiated against the petitioner, he would have got the entire retiral benefits in the month of March, 1999 and only because of the pendancy of departmental proceedings, he had been denied the benefits for all these years and

since he has been exonerated, petitioner should be awarded interest for the delayed payment. Mr. Supehia has submitted that interest at the rate of 12% minimum as per the policy of the Government reflected in the Government Resolution dated 8th December, 1994 (page 34) is required to be awarded. In view of the earlier decision of this Court in case of the present petitioner and the policy of the Government reflected in the Government Resolution, the claim of the petitioner for interest for the delayed payment is justified. I therefore hold that the petitioner is entitled for interest at the rate of 12% per annum on the remaining amount of gratuity with effect from 1.3.1999 and is also entitled to the interest at the same rate on the amount of commuted pension. Directions accordingly.

9. Respondents are directed to see that this order is complied with within four weeks as observed hereinabove. Rule is made absolute to the above extent. Mr. Supehia has not pressed for costs and therefore, no costs.

(C.K.Buch, J.)
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